

(s) *Additional requirements for petitions, reports and certificates.* Any petition for approval to produce diesel fuel subject to the diesel foreign refiner program, any alternative procedures under paragraph (p) of this section, any report or other submission required by paragraph (c), (f)(2), or (i) of this section, and any certification under paragraph (d)(3) of this section shall be—

(1) Submitted in accordance with procedures specified by the Administrator, including use of any forms that may be specified by the Administrator.

(2) Be signed by the president or owner of the foreign refiner company, or by that person's immediate designee, and shall contain the following declaration:

I hereby certify: (1) That I have actual authority to sign on behalf of and to bind [insert name of foreign refiner] with regard to all statements contained herein; (2) that I am aware that the information contained herein is being certified, or submitted to the United States Environmental Protection Agency, under the requirements of 40 CFR part 80, subpart I, and that the information is material for determining compliance under these regulations; and (3) that I have read and understand the information being certified or submitted, and this information is true, complete and correct to the best of my knowledge and belief after I have taken reasonable and appropriate steps to verify the accuracy thereof.

I affirm that I have read and understand the provisions of 40 CFR part 80, subpart I, including 40 CFR 80.620 apply to [insert name of foreign refiner]. Pursuant to Clean Air Act section 113(c) and 18 U.S.C. 1001, the penalty for furnishing false, incomplete or misleading information in this certification or submission is a fine of up to \$10,000 U.S., and/or imprisonment for up to five years.

[66 FR 5136, Jan. 18, 2001, as amended at 69 FR 39208, June 29, 2004]

Subpart J—Gasoline Toxics

GENERAL INFORMATION

SOURCE: 66 FR 17263, Mar. 29, 2001, unless otherwise noted.

§§ 80.800–80.805 [Reserved]

§ 80.810 Who shall register with EPA under the gasoline toxics program?

(a) Refiners and importers who are registered by EPA under § 80.76 are

deemed to be registered for purposes of this subpart.

(b) Refiners and importers subject to the standards in § 80.815 who are not registered by EPA under § 80.76 shall provide to EPA the information required by § 80.76 by October 1, 2001, or not later than three months in advance of the first date that such person produces or imports gasoline, whichever is later.

GASOLINE TOXICS PERFORMANCE REQUIREMENTS

§ 80.815 What are the gasoline toxics performance requirements for refiners and importers?

(a)(1) The gasoline toxics performance requirements of this subpart require that the annual average toxics value of a refinery or importer be compared to that refinery's or importer's compliance baseline, where compliance has been achieved if—

(i) For conventional gasoline, the annual average toxics value is less than or equal to the compliance baseline;

(ii) For reformulated gasoline and RBOB, combined, the annual average toxics value is greater than or equal to the compliance baseline.

(A) Refineries that only produce RBOB and importers that only import RBOB shall treat RBOB as reformulated gasoline for the purposes of determining compliance with the requirements of this subpart.

(B) Refineries that produce both RFG and RBOB and importers that import both RFG and RBOB must combine any RFG and RBOB qualities and volumes for the purposes of determining compliance with the requirements of this subpart.

(2) The requirements under this paragraph (a) shall be met by the importer for all imported gasoline, except gasoline imported as Certified Toxics-FRGAS under § 80.1030.

(b) The gasoline toxics requirements of this subpart apply separately for each of the following types of gasoline produced at a refinery or imported:

(1) Reformulated gasoline and RBOB, combined;

(2) Conventional gasoline.

(c) *Compliance baseline.* (1) The compliance baseline of a refinery or importer is determined in accordance with § 80.915 or § 80.855, as applicable.

(2) Refiners who have chosen, under subpart E of this part, to comply with the requirements of subpart E of this part on an aggregate basis, shall comply with the requirements of this subpart on the same aggregate basis.

(d) *Compliance determination.* (1)(i) The gasoline toxics performance requirements of this subpart apply to gasoline produced at a refinery or imported by an importer during each calendar year starting January 1, 2002. The averaging period is January 1 through December 31 of each year.

(ii)(A) Beginning January 1, 2011, or January 1, 2015 for small refiners approved under § 80.1340, the gasoline toxics performance requirements of this subpart shall apply only to gasoline that is not subject to the benzene standard of § 80.1230, pursuant to the provisions of § 80.1235.

(B) The gasoline toxics performance requirements of this subpart shall not apply to gasoline produced by a refinery approved under § 80.1334, pursuant to § 80.1334(c).

(2) The annual average toxics value is calculated in accordance with § 80.825.

(e) *Deficit carryforward.* (1) A refinery or importer creates a toxics deficit, separately for reformulated gasoline and conventional gasoline, for a given averaging period, when—

(i) For conventional gasoline, its annual average toxics value is greater than the compliance baseline;

(ii) For reformulated gasoline and RBOB, combined, the annual average toxics value is less than the compliance baseline.

(2) In the calendar year following the year the toxics deficit is created, the refinery or importer shall:

(i) Achieve compliance with the refinery or importer toxics performance requirement specified in paragraph (a) of this section; and

(ii) Generate additional toxics credits sufficient to offset the toxics deficit of the previous year.

(f) *Credit carryforward.* (1) A refinery or importer generates toxics credits, separately for reformulated gasoline

and conventional gasoline, for a given averaging period, when—

(i) For conventional gasoline, its annual average toxics value is less than the compliance baseline;

(ii) For reformulated gasoline and RBOB, combined, the annual average toxics value is greater than the compliance baseline.

(2) Toxics credits may be used to offset a toxics deficit in the calendar year following the year the credits are generated, provided the following criteria are met:

(i) Reformulated gasoline toxics credits are only to be used to offset a reformulated gasoline toxics deficit; conventional gasoline credits are only to be used to offset a conventional gasoline toxics deficit.

(ii) A refiner only offsets a toxics deficit at a refinery with toxics credits generated by that refinery.

(iii) Credits generated on an aggregate basis may only be used to offset a deficit calculated on an aggregate basis.

(iv) Credits used to offset a deficit from the previous year may not also be carried forward to the following year. Credits in excess of those used to offset a deficit from the previous year may be used to offset a deficit in the following year.

(v) Only toxics credits generated under this subpart may be used to offset a toxics deficit created under this subpart.

[66 FR 17263, Mar. 29, 2001, as amended at 72 FR 8544, Feb. 26, 2007]

§ 80.820 What gasoline is subject to the toxics performance requirements of this subpart?

For the purpose of this subpart, all reformulated gasoline, conventional gasoline and RBOB, collectively called “gasoline” unless otherwise specified, is subject to the requirements under this subpart, as applicable, with the following exceptions:

(a) Gasoline that is used to fuel aircraft, racing vehicles or racing boats that are used only in sanctioned racing events, provided that:

(1) Product transfer documents associated with such gasoline, and any pump stand from which such gasoline